

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CUTBERTO VIRAMONTES, an individual  
and resident of Cook County, Illinois, *et al.*,

Plaintiffs,

VS.

THE COUNTY OF COOK, a body politic  
and corporate, *et al.*,

Defendants.

Case No. 1:21-cv-04595

Judge: Rebecca R. Pallmeyer

Magistrate Judge: Susan E. Cox

**BRIEF OF *AMICUS CURIAE* CHICAGO BOARD OF RABBIS  
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

**TABLE OF CONTENTS**

INTEREST OF *AMICUS CURIAE*..... vii

INTRODUCTION .....1

ARGUMENT .....4

I. The proliferation of assault weapons would substantially burden the free exercise of the Jewish religion. ....4

II. Assault weapons cause reasonable fear, and thus may be regulated under the Second Amendment. ....12

CONCLUSION.....15

## **TABLE OF AUTHORITIES**

<b>Cases</b>	<b>Page(s)</b>
<i>Cantwell v. State of Connecticut</i> , 310 U.S. 296 (1940).....	4
<i>Congregation Jeshuat Israel v. Congregation Shearith Israel</i> , 866 F.3d 53 (1st Cir. 2017).....	5
<i>D.C. v. Heller</i> , 554 U.S. 570 (2008).....	12, 15
<i>Espinoza v. Montana Dep’t of Revenue</i> , 140 S. Ct. 2246 (2020).....	6, 9
<i>Friedman v. City of Highland Park, Illinois</i> , 784 F.3d 406 (7th Cir. 2015) .....	8
<i>Kennedy v. Bremerton Sch. Dist.</i> , 142 S. Ct. 2407 (2022).....	4, 6, 9
<i>Moore v. Madigan</i> , 708 F.3d 901 (7th Cir. 2013) (Hamilton, J., dissenting).....	15
<i>New York State Rifle &amp; Pistol Ass’n, Inc. v. Bruen</i> , 142 S. Ct. 2111 (2022).....	12, 13
<i>Roman Cath. Diocese of Brooklyn v. Cuomo</i> , 141 S. Ct. 63 (2020).....	6
<i>Sherbert v. Verner</i> , 374 U.S. 398 (1963).....	4, 9, 11
<i>Sir John Knight’s Case</i> , 3 Mod. 117, 87 Eng. Rep. 75, 76 (K. B. 1686) .....	12, 13
 <b>United States Constitution, Statutes, and Ordinances</b>	
2 Edw. 3, c.3 (1328).....	12
7 Ric. 2, 35, ch. 13 (1383).....	12
1692 Mass. Acts and Laws no. 6 .....	13
1699 N. H. Acts and Laws ch. 1. ....	13
1795 Mass. Acts and Laws ch. 2 in Laws of the Commonwealth of Massachusetts.....	13
1801 Tenn. Acts .....	13

Code of Ordinances of Cook Cty., Ill. §§ 54-210 <i>et seq.</i> .....	1, 14
Collection of All Such Acts of the General Assembly of Virginia ch. 21 (1794) .....	13
U.S. CONST. amend. I .....	4
U.S. CONST. art. VI .....	4

## Other Authorities

<i>5 Stabbed at Hanukkah Celebration at New York Rabbi's Home</i> , CBS News, December 29, 2019, available at <a href="https://www.cbsnews.com/news/monsey-synagogue-stabbing-multiple-people-stabbed-at-synagogue-in-rockland-county-2019-12-28/">https://www.cbsnews.com/news/monsey-synagogue-stabbing-multiple-people-stabbed-at-synagogue-in-rockland-county-2019-12-28/</a> (last visited March 7, 2023) .....	2
<i>All Hostages Are Out Alive And Safe At Congregation Beth Israel In Colleyville, Suspect Dead</i> , CBS News, January 15, 2022, available at <a href="https://www.cbsnews.com/texas/news/swat-team-deployed-to-congregation-beth-israel-in-colleyville/">https://www.cbsnews.com/texas/news/swat-team-deployed-to-congregation-beth-israel-in-colleyville/</a> (last visited March 7, 2023) .....	2
Allyson Chiu, ‘ <i>Together we will rise above the fear</i> ’: Jewish leaders defiant after Molotov cocktails thrown at synagogue, Wash. Post, May 21, 2019, available at <a href="https://www.washingtonpost.com/nation/2019/05/21/together-we-will-rise-above-fear-jewish-leaders-defiant-after-molotov-cocktails-thrown-synagogue/">https://www.washingtonpost.com/nation/2019/05/21/together-we-will-rise-above-fear-jewish-leaders-defiant-after-molotov-cocktails-thrown-synagogue/</a> (last visited March 6, 2023) .....	3
Amanda Vinicky, <i>Alleged Highland Park Shooter’s Online Behavior Fits Dark Pattern</i> , WTTW, July 6, 2022, <a href="https://news.wttw.com/2022/07/06/alleged-highland-park-shooter-s-online-behavior-fits-dark-pattern">https://news.wttw.com/2022/07/06/alleged-highland-park-shooter-s-online-behavior-fits-dark-pattern</a> (last visited March 10, 2023) .....	8
Andrew Lawler, <i>Joachim Gans, the First Practicing Jew to Set Foot in North America, Finally Gets His Due</i> , Smithsonian Mag., September 20, 2019, available at <a href="https://www.smithsonianmag.com/history/americas-first-practicing-jew-america-finally-gets-his-due-180973186/">https://www.smithsonianmag.com/history/americas-first-practicing-jew-america-finally-gets-his-due-180973186/</a> (last visited March 6, 2023) .....	5
Ari Blaff, <i>Jewish Cemetery outside Chicago Vandalized with Swastikas: ‘Kanye Was Rite’</i> , National Review, November 15, 2022, available at <a href="https://www.nationalreview.com/news/jewish-cemetery-outside-chicago-vandalized-with-swastikas-kanye-was-rite/">https://www.nationalreview.com/news/jewish-cemetery-outside-chicago-vandalized-with-swastikas-kanye-was-rite/</a> (last visited March 6, 2023) .....	2
Ariel Worthy, <i>Pittsburgh Restricts Use Of Assault-Style Weapons, Setting Up Court Fight</i> , NPR, April 9, 2019, available at <a href="https://www.npr.org/2019/04/09/711401894/pittsburgh-restricts-use-of-assault-style-weapons-setting-up-court-fight">https://www.npr.org/2019/04/09/711401894/pittsburgh-restricts-use-of-assault-style-weapons-setting-up-court-fight</a> (last visited March 7, 2023) .....	9

<i>Arrest Made In Shooting Outside Of Northeast Miami-Dade Synagogue</i> , CBS News, August 20, 2019, available at <a href="https://www.cbsnews.com/miami/news/arrest-made-in-shooting-outside-of-northeast-miami-dade-synagogue/">https://www.cbsnews.com/miami/news/arrest-made-in-shooting-outside-of-northeast-miami-dade-synagogue/</a> (last visited March 7, 2023).....	2
<i>Audit of Antisemitic Incidents of 2021</i> , ADL, May 3, 2022, available at <a href="https://www.adl.org/resources/report/audit-antisemitic-incidents-2021">https://www.adl.org/resources/report/audit-antisemitic-incidents-2021</a> (last visited March 1, 2023) .....	7
Audrey McNamara and Victoria Albert, <i>4 Killed in Jersey City Shooting, Including a Police Officer</i> , CBS News, December 11, 2019, available at <a href="https://www.cbsnews.com/live-news/jersey-city-shooting-police-officer-shot-live-stream-updates-2019-12-10/">https://www.cbsnews.com/live-news/jersey-city-shooting-police-officer-shot-live-stream-updates-2019-12-10/</a> (last visited March 7, 2023).....	1
Charles DiMaggio et al., <i>Changes in US Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban: Analysis of Open-Source Data</i> , 1 Journal of Trauma and Acute Care Surgery 86, (January 2019) .....	8
Darrell A.H. Miller, <i>Constitutional Conflict and Sensitive Places</i> , 28 Wm & Mary Bill Rts. 459 (2019).....	15
THE DECLARATION OF INDEPENDENCE (July 4, 1776).....	5
<i>Federal Bureau of Investigation Crime Data Explorer</i> , available at <a href="https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime">https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime</a> (last visited March 1, 2023) .....	6
George Washington, Letter to the Jews of Newport, 18 August 1790, Washington Papers, 6:284-85 .....	6
<i>Gunman Pleads Guilty in Fatal 2019 Poway Synagogue Shooting, Avoids Death Penalty</i> , CBS News, July 20, 2021, available at <a href="https://www.cbsnews.com/news/poway-synagogue-shooting-guilty-plea/">https://www.cbsnews.com/news/poway-synagogue-shooting-guilty-plea/</a> (last visited March 7, 2023) .....	1
<i>Illinois not-for-profit security grant program provides \$20 million for organizations at risk of terrorist attack</i> , Ready Illinois, November 18, 2022, available at <a href="https://ready.illinois.gov/press/111822.html">https://ready.illinois.gov/press/111822.html</a> (last visited March 10, 2023) .....	10
<i>In Face of Threatened ‘Day of Hate’, ADL Urges Allies to Join in Shabbat of Peace</i> , ADL, February 24, 2023, available at <a href="https://www.adl.org/resources/press-release/face-threatened-day-hate-adl-urges-allies-join-shabbat-peace">https://www.adl.org/resources/press-release/face-threatened-day-hate-adl-urges-allies-join-shabbat-peace</a> (last visited March 8, 2023) .....	7
James H. Price and Jagdish Khubchandani, <i>School Firearm Violence Prevention Practices and Policies: Functional or Folly?</i> , 6 Violence and Gender 3:154 (September 2019).....	14

<i>Jewish Americans in 2020</i> , Pew Research Center, May 11, 2021, available at <a href="https://www.pewresearch.org/religion/2021/05/11/jewish-americans-in-2020/">https://www.pewresearch.org/religion/2021/05/11/jewish-americans-in-2020/</a> (last visited March 7, 2021) .....	11
Jonathan D. Sarna, <i>The Impact of the American Revolution on American Jews</i> , 1 Modern Judaism, 149 (1981) .....	5, 6
Julianne McShane, <i>Highland Park, Illinois, had an Antisemitic Incident Earlier this Year</i> , NBC News, July 4, 2022, available at <a href="https://www.nbcnews.com/news/us-news/concerns-raised-possible-antisemitism-highland-park-illinois-july-four-rcna36599">https://www.nbcnews.com/news/us-news/concerns-raised-possible-antisemitism-highland-park-illinois-july-four-rcna36599</a> (last visited March 8, 2023) .....	7, 8
Leila Nadya Sadat & Madaline M. George, <i>Gun Violence and Human Rights</i> , 60 Wash. U. J.L. & Pol’y 1, 68 (2019) .....	11
Letter from John Adams to Thomas Jefferson (April 19, 1817), available at <a href="https://founders.archives.gov/documents/Adams/99-02-02-6744">https://founders.archives.gov/documents/Adams/99-02-02-6744</a> .....	5
Marc Rod, <i>Fewer than Half of NSGP Grant Applications Approved for 2021</i> , Jewish Insider, July 28, 2021, available at <a href="https://jewishinsider.com/2021/07/less-than-half-of-nsgp-grant-applications-approved-for-2021/">https://jewishinsider.com/2021/07/less-than-half-of-nsgp-grant-applications-approved-for-2021/</a> (last visited March 1, 2023) .....	10
Matt Jancer, <i>Gun Control Is as Old as the Old West</i> , Smithsonian, February 5, 2018, available at <a href="https://www.smithsonianmag.com/history/guncontrol-old-west-180968013/">https://www.smithsonianmag.com/history/guncontrol-old-west-180968013/</a> (last visited March 1, 2023) .....	13
Michael Specht & Roger Heath, <i>Community Alert</i> , Chicago Police Dep’t. 024th Dist., February 22, 2023, available at <a href="https://40thward.org/2023/02/community-alert-from-24th-chicago-police-district/">https://40thward.org/2023/02/community-alert-from-24th-chicago-police-district/</a> (last visited March 1, 2023) .....	7
Natasha Singer, <i>Schools Are Spending Billions on High-Tech Defense for Mass Shootings</i> , N.Y. Times, July 11, 2022, available at <a href="https://www.nytimes.com/2022/06/26/business/school-safety-technology.html">https://www.nytimes.com/2022/06/26/business/school-safety-technology.html</a> (last visited March 10, 2023) .....	9
<i>Nonprofit Security Grant Program</i> , FEMA, available at <a href="https://www.fema.gov/grants/preparedness/nonprofit-security">https://www.fema.gov/grants/preparedness/nonprofit-security</a> (last visited March 7, 2023) .....	10
<i>School Bus and Yelled Anti-Semitic Slurs</i> , NBC Chi., November 11, 2022, available at <a href="https://www.nbcchicago.com/news/local/men-in-west-rogers-park-jumped-on-school-bus-and-yelled-anti-semitic-slurs-jewish-group-says/2993800/">https://www.nbcchicago.com/news/local/men-in-west-rogers-park-jumped-on-school-bus-and-yelled-anti-semitic-slurs-jewish-group-says/2993800/</a> (last visited March 6, 2023) .....	2

<i>Suspect Arrested in San Francisco Synagogue Shooting</i> , CBS News, available at <a href="https://www.cbsnews.com/news/suspect-arrested-san-francisco-synagogue-shooting-dmitri-mishin/">https://www.cbsnews.com/news/suspect-arrested-san-francisco-synagogue-shooting-dmitri-mishin/</a> (last visited March 7, 2023) .....	2
<i>Suspect in Pittsburgh Synagogue Massacre Faces More Charges</i> , Reuters, January 29, 2019, available at <a href="https://www.reuters.com/article/us-pennsylvania-shooting/suspect-in-pittsburgh-synagogue-massacre-faces-more-charges-idUSKCN1PN2HH">https://www.reuters.com/article/us-pennsylvania-shooting/suspect-in-pittsburgh-synagogue-massacre-faces-more-charges-idUSKCN1PN2HH</a> (last visited March 7, 2023) .....	1
<i>Three Dead in Shootings at Jewish Facilities in Kansas City Suburb</i> , CBS News, April 13, 2014, available at <a href="https://www.cbsnews.com/news/shootings-reported-at-two-jewish-facilities-in-kansas-city/">https://www.cbsnews.com/news/shootings-reported-at-two-jewish-facilities-in-kansas-city/</a> (last visited March 7, 2023).....	2
<i>United States</i> , Everytown Research & Policy, June 4, 2021, available at <a href="https://everytownresearch.org/maps/mass-shootings-in-america/">https://everytownresearch.org/maps/mass-shootings-in-america/</a> (last visited March 1, 2023).....	8
WASHINGTON’S FAREWELL ADDRESS TO THE PEOPLE OF THE UNITED STATES, Sen. Doc. No. 106–21 .....	5
<i>Windows broken, swastikas placed at Chicago synagogue</i> , Times of Israel, February 4, 2017, available at <a href="https://www.timesofisrael.com/windows-broken-swastikas-placed-at-entrance-to-chicago-synagogue/">https://www.timesofisrael.com/windows-broken-swastikas-placed-at-entrance-to-chicago-synagogue/</a> (last visited March 6, 2023).....	3
Yonat Shimron, <i>Synagogues Forced to Balance Welcoming the Stranger with Protecting their Own</i> , Religion News Services, January 19, 2022, available at <a href="https://religionnews.com/2022/01/19/synagogues-balance-welcoming-the-stranger-with-protecting-their-own/">https://religionnews.com/2022/01/19/synagogues-balance-welcoming-the-stranger-with-protecting-their-own/</a> (last visited March 8, 2023) .....	11



**INTEREST OF *AMICUS CURIAE***

The Chicago Board of Rabbis (“Board”) is comprised of over 180 rabbis in Chicagoland, representing the Conservative, Orthodox, Reconstructionist, Reform, and Humanistic streams of Jewish life. Its members are community leaders in synagogues, schools, and community centers. The Board works to enhance the interest of *k’lal Yisrael* (the Jewish people) in Chicago and beyond. Specifically and in relevant part, the Board fosters united action among Rabbis, interprets the role of the Rabbi as the guide to his or her people and a guardian of the religious interests of Chicago Jewry, and promotes Jewish living and learning. The Board’s members and their congregants, students, and communities are at risk of hateful, violent, and deadly antisemitic attacks. The proliferation of assault weapons currently banned under Cook County’s Blair Holt Assault Weapons Ban that is the subject of this suit would increase the risks of gun violence for Cook County’s Jewish community. The Board offers a unique perspective and relevant experience, context, and analysis of how the Court’s ruling may impact the safety and security of Jewish people and the free exercise of the Jewish religion in Cook County. The Parties do not otherwise present these issues to the Court.

## **INTRODUCTION**

The invalidation of the Blair Holt Assault Weapon Ban, Code of Ordinances of Cook Cty., Ill. §§ 54-210 *et seq.*, (the “Ordinance”), and resulting legalization of assault weapons in Cook County would pose a particular threat to the fundamental rights of Jewish people in metropolitan Chicago: specifically, their right to life, and to the free and safe exercise of their religion. In addition, members of the Jewish community reasonably fear assault weapons and their historic and potential use in targeted mass shootings, such that the Ordinance prohibiting them is permissible under the Second Amendment.

On October 27, 2018—shouting “[a]ll Jews must die!”—Robert Bowers entered the Tree of Life Synagogue in Pittsburgh, Pennsylvania during Shabbat morning services, armed with a Colt AR-15 semi-automatic rifle. *Suspect in Pittsburgh Synagogue Massacre Faces More Charges*, Reuters, January 29, 2019, available at <https://www.reuters.com/article/us-pennsylvania-shooting/suspect-in-pittsburgh-synagogue-massacre-faces-more-charges-idUSKCN1PN2HH> (last visited March 7, 2023). Bowers opened fire, killing eleven worshippers and injuring seven others, including five Pittsburgh law enforcement officers. *Id.*

This was just one of several violent, deadly, and targeted attacks against Jews across the United States that have occurred over the last several years, including:

- A shooting at the JC Kosher Supermarket in Jersey City, New Jersey on December 10, 2019, in which four people were killed; Audrey McNamara and Victoria Albert, *4 Killed in Jersey City Shooting, Including a Police Officer*, CBS News, December 11, 2019, available at <https://www.cbsnews.com/live-news/jersey-city-shooting-police-officer-shot-live-stream-updates-2019-12-10/> (last visited March 7, 2023);
- A shooting with a semi-automatic rifle at the Chabad of Poway in Poway, California on April 27, 2019, in which one person was killed and three were wounded; *Gunman Pleads Guilty in Fatal 2019 Poway Synagogue Shooting, Avoids Death Penalty*, CBS News, July 20, 2021, available at <https://www.cbsnews.com/news/poway-synagogue-shooting-guilty-plea/> (last visited March 7, 2023);

- Two shootings at the Jewish Community Center of Greater Kansas City and at Village Shalom in Overland Park, Kansas on April 13, 2014, in which three people were killed; *Three Dead in Shootings at Jewish Facilities in Kansas City Suburb*, CBS News, April 13, 2014, available at <https://www.cbsnews.com/news/shootings-reported-at-two-jewish-facilities-in-kansas-city/> (last visited March 7, 2023);
- A stabbing at a rabbi's home in Rockland County, New York on December 28, 2019, in which five people were wounded; *5 Stabbed at Hanukkah Celebration at New York Rabbi's Home*, CBS News, December 29, 2019, available at <https://www.cbsnews.com/news/monsey-synagogue-stabbing-multiple-people-stabbed-at-synagogue-in-rockland-county-2019-12-28/> (last visited March 7, 2023);
- An armed attack at Congregation Beth Israel in Colleyville, Texas on January 15, 2022, in which four people were held hostage for 11 hours; *All Hostages Are Out Alive And Safe At Congregation Beth Israel In Colleyville, Suspect Dead*, CBS News, January 15, 2022, available at <https://www.cbsnews.com/texas/news/swat-team-deployed-to-congregation-beth-israel-in-colleyville/> (last visited March 7, 2023);
- A shooting at Young Israel of Greater Miami in North Miami Beach, Florida on July 28, 2019, in which one person was wounded; *Arrest Made In Shooting Outside Of Northeast Miami-Dade Synagogue*, CBS News, August 20, 2019, available at <https://www.cbsnews.com/miami/news/arrest-made-in-shooting-outside-of-northeast-miami-dade-synagogue/> (last visited March 7, 2023);
- A shooting at the Schneerson Center in San Francisco, California on, February 1, 2023, which fortunately had no casualties; *Suspect Arrested in San Francisco Synagogue Shooting*, CBS News, available at <https://www.cbsnews.com/news/suspect-arrested-san-francisco-synagogue-shooting-dmitri-mishin/> (last visited March 7, 2023).

Chicago is not immune to incidents of violent antisemitism. Last November, four adult men forced their way onto a school bus of Jewish students, threatened a child, yelled antisemitic slurs, and gave the Nazi salute. *See Men in West Rogers Park Jumped on School Bus and Yelled Anti-Semitic Slurs*, NBC Chi., November 11, 2022, available at <https://www.nbcchicago.com/news/local/men-in-west-rogers-park-jumped-on-school-bus-and-yelled-anti-semitic-slurs-jewish-group-says/2993800/> (last visited March 6, 2023). Also last November, vandals entered a Jewish cemetery and painted swastikas on 16 headstones and defaced another 23. *See Ari Blaff, Jewish Cemetery outside Chicago Vandalized with Swastikas: 'Kanye Was Rite'*, National Review, November 15, 2022, available at

<https://www.nationalreview.com/news/jewish-cemetery-outside-chicago-vandalized-with-swastikas-kanye-was-rite/> (last visited March 6, 2023). In 2019, a Molotov cocktail was thrown at Anshe Sholom B’nai Israel Congregation in Lakeview. See Allyson Chiu, ‘*Together we will rise above the fear*’: Jewish leaders defiant after Molotov cocktails thrown at synagogue, Wash. Post, May 21, 2019, available at <https://www.washingtonpost.com/nation/2019/05/21/together-we-will-rise-above-fear-jewish-leaders-defiant-after-molotov-cocktails-thrown-synagogue/> (last visited March 6, 2023). And in 2017, an assailant broke windows and placed swastikas at the entrance to the Loop Synagogue. See *Windows broken, swastikas placed at Chicago synagogue*, Times of Israel, February 4, 2017, available at <https://www.timesofisrael.com/windows-broken-swastikas-placed-at-entrance-to-chicago-synagogue/> (last visited March 6, 2023).

The incidents described above—which merely scratch the surface—and the data on growing violent antisemitism discussed below demonstrate that the Chicagoland Jewish community is at risk of violent acts of baseless hatred, and the Ordinance reduces the probability that those acts involve assault weapons that would cause mass death and devastation. It is essential to protecting the lives and free religious practice of Jewish people and the safety of their institutions. By contrast, striking the Ordinance would substantially burden the exercise of the Jewish faith, in violation of the principles of the First Amendment. Moreover, the assault weapons reasonably induce a heightened sense of fear and intimidation among Jewish people in Cook County, and thus may be regulated under the Second Amendment.

## ARGUMENT

I. The proliferation of assault weapons would substantially burden the free exercise of the Jewish religion.

Invalidating the Ordinance would violate the principles and protections of the First Amendment that the Framers of the United States Constitution deemed essential to ordered democracy. The First Amendment provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech....” U.S. CONST. amend. I.<sup>1</sup> In so providing, the First Amendment “doubly protects” religious speech, with the Free Exercise Clause protecting religious exercise, and the Free Speech clause providing additional protection for expressive religious activities. *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2421 (2022).<sup>2</sup> Through the Fourteenth Amendment, the First Amendment prohibits “undu[e] ... infringe[ment] on the protected freedom.” *Cantwell v. State of Connecticut*, 310 U.S. 296, 304 (1940). An individual’s free exercise of religion is burdened when he or she is pressured to forgo religious practice. *Sherbert v. Verner*, 374 U.S. 398, 404 (1963) (forcing choice between religious practice and government benefits burdened exercise of religion).

The Framers of the Constitution understood the protection of the free exercise of religion as paramount and fundamental to an ordered, democratic society. At the outset, the signatories to the Declaration of Independence held as self-evident that all people “are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

---

<sup>1</sup> The Constitution further protects religious freedom, providing that “no religious test shall ever be required as a qualification to any office or public trust under the United States.” U.S. CONST. art. VI.

<sup>2</sup> Defendants discuss the “chilling effect” that repealing the Ordinance would have on the First Amendment rights to free speech and assembly. Doc. 80, Defs.’ Mem. of Law in Support of their Mot. for Summary Judgment, 30-31. This section discusses the similar effects on the First Amendment right to the free exercise of religion.

THE DECLARATION OF INDEPENDENCE (July 4, 1776), para. 2. Benjamin Franklin famously moved at the beginning of the Constitutional Convention to begin each day with “prayers imploring the assistance of Heaven, and its blessings on our deliberations.” The Records of the Federal Convention of 1787, vol. 1 (Max Farrand ed. 1911) (Madison, June 28, 1787). President George Washington proclaimed in his Farewell Address that “of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.” WASHINGTON’S FAREWELL ADDRESS TO THE PEOPLE OF THE UNITED STATES, Sen. Doc. No. 106–21. John Adams, for his part, later wrote to Thomas Jefferson, “Without Religion this World would be Something not fit to be mentioned in polite Company, I mean Hell.” Letter from John Adams to Thomas Jefferson (April 19, 1817), available at <https://founders.archives.gov/documents/Adams/99-02-02-6744> (last visited March 6, 2023). These writings demonstrate that the Framers viewed the right to free exercise of religion as one upon which all others depend.

The practice of Judaism in America predates the Constitution. Joachim Gans, the first known practicing Jew in North America, arrived at the Roanoke Colony in 1585. *See* Andrew Lawler, *Joachim Gans, the First Practicing Jew to Set Foot in North America, Finally Gets His Due*, *Smithsonian Mag.*, September 20, 2019, available at <https://www.smithsonianmag.com/history/americas-first-practicing-jew-america-finally-gets-his-due-180973186/> (last visited March 6, 2023). One of the first Jewish communities, Congregation Jeshuat Israel, was established in the Colonies in the seventeenth century. *See Congregation Jeshuat Israel v. Congregation Shearith Israel*, 866 F.3d 53, 54–55 (1st Cir. 2017) (Souter, J., by designation). By 1776, there were approximately 2,500 Jews living in the Colonies, and “legislation ... rarely limited Jews’ right to work and worship in peace.” Jonathan D. Sarna, *The Impact of the American Revolution on American Jews*, 1 *Modern Judaism*, 149 (1981). During the

Revolutionary War, Jews “contributed what they could to the national struggle, shed blood on the field of battle, and, after the victory, joined their countrymen in jubilant celebration.” *Id.* In 1790, George Washington wrote to the Jewish community of Newport, Rhode Island, that “the Government of the United States gives to bigotry no sanction, to persecution no assistance.” George Washington, *Letter to the Jews of Newport, 18 August 1790*, Washington Papers, 6:284-85. The Framers thus were well aware of the Jewish population in the young Republic, and made clear that the First Amendment protected their religious freedoms. *See, e.g., Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020) (granting injunctive relief from state executive order that could be viewed as targeting Jewish community).

Striking the Ordinance would burden the historic practice of Judaism in Cook County in a way that cannot be overstated. The Supreme Court has held that religious exercise can be burdened by a poor job performance evaluation, *e.g., Kennedy*, 142 S. Ct. at 2422, and ineligibility to receive financial aid to attend private school, *e.g., Espinoza v. Montana Dep’t of Revenue*, 140 S. Ct. 2246, 2261 (2020). The impact of striking the ban—up to and including significant loss of human life—would be even more catastrophically burdensome to the free exercise of religion than the impairments identified by the Supreme Court in *Kennedy* and *Espinoza*.

Violent antisemitism is indisputably prevalent across the United States, and on the rise. From 2017 to 2021, there were 4,413 reported anti-Jewish hate crimes, 657 of which occurred at synagogues and Jewish schools. *See Federal Bureau of Investigation Crime Data Explorer*, available at <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime> (last visited March 1, 2023).<sup>3</sup> And the threat is growing—the 2,717 antisemitic incidents (which

---

<sup>3</sup> “Hate crimes” are defined as those “motivated, in whole or in part, by the offender’s bias against a race, gender, gender identity, religion, disability, sexual orientation, or ethnicity, and were committed against people, property, or society.” *Id.* The categorization is under-inclusive of

include 525 such incidents at Jewish synagogues, schools, and community centers) and 88 violent assaults against Jews that occurred in 2021 represent increases of 34% and 167%, respectively, from the number of antisemitic incidents and violent assaults that occurred during the prior year. *Audit of Antisemitic Incidents of 2021*, ADL, May 3, 2022, available at <https://www.adl.org/resources/report/audit-antisemitic-incidents-2021> (last visited March 1, 2023). Indeed, as recently as February 25, 2023, in response to the rising tide of antisemitism locally and nationwide—and, specifically, domestic violent extremists’ online messaging designating the upcoming Shabbat as a national “Day of Hate”<sup>4</sup>—the Chicago Police Department Place of Worship Safety Advisory Team issued a Community Alert, “urg[ing] community members to keep situationally aware.” Michael Specht & Roger Heath, *Community Alert*, Chicago Police Dep’t. 024th Dist., February 22, 2023, available at <https://40thward.org/2023/02/community-alert-from-24th-chicago-police-district/> (last visited March 1, 2023).

Antisemitism, even when not the only motivation, is commonly tied to mass shootings—including the July 4, 2022 mass shooting in Highland Park, Illinois, a Chicago suburb in which approximately one third of the population is Jewish. *See* Julianne McShane, *Highland Park, Illinois, had an Antisemitic Incident Earlier this Year*, NBC News, July 4, 2022, available at <https://www.nbcnews.com/news/us-news/concerns-raised-possible-antisemitism-highland-park->

---

crimes involving antisemitic animus, however, because it includes crimes “[o]nly when a law enforcement investigation reveals sufficient evidence to lead a reasonable and prudent person to conclude that the offender’s actions were motivated, in whole or in part, by their bias....” *Id.*

<sup>4</sup> White supremacists publicly announced that the Day of Hate would involve, at the very least, increased antisemitic flier distributions, protests, and graffiti. *See In Face of Threatened ‘Day of Hate’, ADL Urges Allies to Join in Shabbat of Peace*, ADL, February 24, 2023, available at <https://www.adl.org/resources/press-release/face-threatened-day-hate-adl-urges-allies-join-shabbat-peace> (last visited March 8, 2023).



[illinois-july-four-rcna36599](#) (last visited March 8, 2023). Investigators confirmed that the shooter in Highland Park was radicalized in internet circles virulent with antisemitism. Amanda Vinicky, *Alleged Highland Park Shooter's Online Behavior Fits Dark Pattern*, WTTW, July 6, 2022, <https://news.wttw.com/2022/07/06/alleged-highland-park-shooter-s-online-behavior-fits-dark-pattern> (last visited March 10, 2023). Like many other mass shootings, antisemitism was the “background radiation” of this attack. *Id.* (quoting Alex Newhouse, Deputy Dir. for Middlebury’s Center on Terrorism, Extremism, and Counterterrorism).

Assault weapons are strongly correlated with heightened mass shooting fatalities. Between 2009 and 2020, there were 30 mass shootings involving assault weapons. *Twelve Years of Mass Shootings in the United States*, Everytown Research & Policy, June 4, 2021, available at <https://everytownresearch.org/maps/mass-shootings-in-america/> (last visited March 1, 2023). Mass shootings by those wielding assault weapons have an average of six times as many casualties as those without. *Id.* The data also shows that mass shooting deaths were 70% less likely to occur during the 13 years when the federal prohibition on assault weapons was in effect than during the 13 years after it expired. *See id.* (citing Charles DiMaggio et al., *Changes in US Mass Shooting Deaths Associated with the 1994-2004 Federal Assault Weapons Ban: Analysis of Open-Source Data*, 1 *Journal of Trauma and Acute Care Surgery* 86, (January 2019)).

Striking down the Ordinance and legalizing assault weapons in Cook County would unquestionably increase the availability of those firearms, and, accordingly, the risk and potential devastation of mass shootings in local synagogues and other Jewish spaces. *See Twelve Years of Mass Shootings in the United States*, Everytown Research and Policy; *see also Friedman v. City of Highland Park, Illinois*, 784 F.3d 406, 411 (7th Cir. 2015) (“A ban on assault weapons and large-capacity magazines ... may reduce the carnage if a mass shooting occurs.”). Without the

Ordinance, Jewish institutions in Cook County will be particularly susceptible to a massacre like the one inflicted on Tree of Life Synagogue in Pittsburgh, which, notably, had no such assault weapons ban in place at the time, but instituted one shortly thereafter. *See* Ariel Worthy, *Pittsburgh Restricts Use Of Assault-Style Weapons, Setting Up Court Fight*, NPR, April 9, 2019, available at <https://www.npr.org/2019/04/09/711401894/pittsburgh-restricts-use-of-assault-style-weapons-setting-up-court-fight> (last visited March 7, 2023).

Further, invalidating the Ordinance would, at the very least, impose substantial financial and psychological burdens on Jewish religious practice. Financial burdens on the exercise of religion violate the First Amendment. *See, e.g., Kennedy*, 142 S. Ct. at 2422; *Espinoza*, 140 S. Ct. at 2261; *Sherbert*, 374 U.S. at 404. Chicagoland synagogues that can afford to do so already spend \$74,122 per year on average on security measures, with some spending as much as \$200,000. Ex. 1, Follmer Decl., ¶ 4. The existing threat of antisemitic violence has led many area synagogues to undertake significant and costly infrastructural projects, including, among other measures, installing cameras, reinforcements to external doors, alarms, panic buttons, electronic keys, safety glass, video intercoms, and physical barriers to access. *Id.* ¶ 3. These costs are burdensome for Jewish organizations in the metropolitan Chicago area that can afford them, and outright prohibitive for those that cannot, including the approximately 21% of synagogues and 12% of total survey respondents that indicated that they do not have separate security budgets to fund such measures. *Id.* ¶ 5. The increased risk of an attack due to the prevalence of assault weapons will demand yet additional security expenditures. *See* Natasha Singer, *Schools Are Spending Billions on High-Tech Defense for Mass Shootings*, N.Y. Times, July 11, 2022, available at <https://www.nytimes.com/2022/06/26/business/school-safety-technology.html> (last visited March

10, 2023) (noting increase in nationwide school security expenditures from \$2.7 billion in 2017 to \$3.1 billion in 2021).

This financial harm is beyond the present ability of federal, state, and local governments to remedy. Federal and state governments have recognized the need for more security in religious and non-profit settings in the current climate, but their efforts have proven inadequate to meet the significant need from religious groups and other non-profit organizations to date. For example, in 2022, the United States Federal Emergency Management Agency Nonprofit Security Grant Program offered \$250 million in “funding support for target hardening and other physical security enhancements and activities to nonprofit organizations that are at high risk of terrorist attack,” an increase from \$180 million in 2021. *Nonprofit Security Grant Program*, FEMA, available at <https://www.fema.gov/grants/preparedness/nonprofit-security> (last visited March 7, 2023). The Illinois Not-for-Profit Security Grant Program, for its part, will provide \$20 million in 2023 to eligible non-profits at high-risk of attack. *Illinois not-for-profit security grant program provides \$20 million for organizations at risk of terrorist attack*, Ready Illinois, November 18, 2022, available at <https://ready.illinois.gov/press/111822.html> (last visited March 10, 2023). In 2021, however, 3,361 non-profits submitted grant applications to FEMA seeking nearly \$400 million, far outpacing even 2023’s \$250 million allocation. Marc Rod, *Fewer than Half of NSGP Grant Applications Approved for 2021*, Jewish Insider, July 28, 2021, available at <https://jewishinsider.com/2021/07/less-than-half-of-nsgp-grant-applications-approved-for-2021/> (last visited March 1, 2023). The additional \$20 million in funding that Illinois is offering cannot fill that gap. What is more, these figures do not capture the countless number of organizations that need these funds but do not know about them, or lack the resources or expertise to apply for them.

Jewish institutions thus will need to enhance their security measures out-of-pocket, and such expenditures comes with high opportunity costs. Funds allocated to security cannot be spent on other essential functions of Jewish organizations, including, for example, religious rituals, educational programming, social events, community outreach, and charitable efforts. The result is that synagogues and other Jewish organizations cannot provide the same quality and quantity of religious and secular services that they would be able to offer if they did not need to allocate such significant portions of their operating budgets toward the basic safety needs of their congregants. The choice between security measures and funding of religious practices is precisely the sort of burden against which the First Amendment protects. *See Sherbert*, 374 U.S. at 404.<sup>5</sup>

The proliferation of dangerous weapons also burdens individuals' Jewish practice. Intimidation and threats of violence at places of worship measurably reduces religious exercise and restricts free expression. Leila Nadya Sadat & Madaline M. George, *Gun Violence and Human Rights*, 60 Wash. U. J.L. & Pol'y 1, 68 (2019). Indeed, of people who identify as Jewish and do not attend religious services, 6% said that the reason for their lack of attendance is “fear for ... security.” *Jewish Americans in 2020*, Pew Research Center, May 11, 2021, available at <https://www.pewresearch.org/religion/2021/05/11/jewish-americans-in-2020/> (last visited March 7, 2021). Given the substantial burden of existing threats to synagogues on the exercise of the religion by those too afraid to enter them, it is clear that the heightened fear of violence induced by invalidation of the Ordinance—and the resulting proliferation of assault weapons in Cook

---

<sup>5</sup> Security demands also require synagogues to “choos[e] between our moral obligation” of the *mitzvah* to welcome the stranger “and security.” Yonat Shimron, *Synagogues Forced to Balance Welcoming the Stranger with Protecting their Own*, Religion News Services, January 19, 2022, available at <https://religionnews.com/2022/01/19/synagogues-balance-welcoming-the-stranger-with-protecting-their-own/> (last visited March 8, 2023) (quoting Mitchell Silber, executive director of the Jewish Community Security Initiative for eight counties around New York City).

County—would prevent even more Jews in and around Chicago from fully participating (or participating at all) in communal religious observance. And what cannot be quantified in a survey is the incalculable number of congregants who enter Jewish spaces and have a significantly less meaningful religious experience due to distractions from heightened security measures and the fear they face for merely practicing their faith and holding to their identity and heritage.

For these reasons striking down the Ordinance and legalizing assault weapons would substantially burden the free exercise of religion by Jewish citizens of Cook County, in violation of the First Amendment, and contrary to the Framers’ intent.

II. Assault weapons cause reasonable fear, and thus may be regulated under the Second Amendment.

The Second Amendment protects only the right to wear, bear, or carry weapons in common use for self-defense. *See New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111, 2134 (2022). A regulation limiting that right is valid if it “is consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 2129-30. A regulation must have a historical analogue that used similar means for a similar purpose. *See Id.* at 2132-33; *see also D.C. v. Heller*, 554 U.S. 570, 592 (2008) (explaining that contemporaneous arms restrictions inform the pre-existing right to bear arms codified in the Second Amendment).

The Cook County Assault Weapons Ban is analogous to historic, reasonable gun restrictions on weapons wielded to cause fear among identifiable communities. The Statute of Northampton, 2 Edw. 3, c.3 (1328), perhaps the first in this regard, prohibited “rid[ing] armed ... in fairs [and] markets.” Launcegays were later explicitly prohibited. *See* 7 Ric. 2, 35, ch. 13 (1383). The statute was used to prosecute Sir John Knight for “[going] into the church of St. Michael, in Bristol, in the time of divine service, with a gun, to terrify the King's subjects.” *Sir*

*John Knight's Case*, 3 Mod. 117, 87 Eng. Rep. 75, 76 (K. B. 1686). This conduct, illegal 350 years ago, is precisely of the sort that concerns *amici* today.

The colonies and early states adopted similar rules against wielding weapons that cause fear. For example, in the late seventeenth century, Massachusetts and New Hampshire prohibited people from “go[ing] armed Offensively ... in Fear or Affray of Their Majesties Liege People.” *Bruen*, 142 S. Ct. at 2142 (citing 1692 Mass. Acts and Laws no. 6, pp. 11-12; 1699 N. H. Acts and Laws ch. 1). Shortly after the Second Amendment was ratified, Virginia outlawed “rid[ing] armed ... in fairs or markets, or in other places in terror of the Country.” *Id.* at 2144 (citing Collection of All Such Acts of the General Assembly of Virginia ch. 21, p. 33 (1794)). Massachusetts again barred “go[ing] armed offensively, to the fear or terror of the good citizens of this Commonwealth.” *Id.* (citing 1795 Mass. Acts and Laws ch. 2, p. 436, in Laws of the Commonwealth of Massachusetts). Tennessee punished those who would “carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person.” *Id.* at 2144-45 (citing 1801 Tenn. Acts pp. 260-261). Later, Dodge City in the West barred all firearms from the town. See Matt Jancer, *Gun Control Is as Old as the Old West*, Smithsonian, February 5, 2018, available at <https://www.smithsonianmag.com/history/guncontrol-old-west-180968013/> (last visited March 1, 2023) (“Cultivating a reputation of peace and stability was necessary ... if it were to become anything more transient than a one-industry boom town.”).

The assault weapons that the Ordinance bans reasonably cause fear among many in the Jewish community. The Supreme Court in *Bruen* determined that the Colonial and early-Republic statutes “do little to support restrictions on the public carry *of handguns*” because they are in “common use” and thus are not “dangerous and unusual” weapons that give “reasonable cause to fear.” 142 S. Ct. at 2143-50 (emphasis added). But the Court did not speak to the assault weapons

banned by the Ordinance. The Ordinance, for example, prohibits semiautomatic rifles that accept large capacity magazines and have a pistol grip without a stock; a protruding grip; a folding, telescoping, or thumbhole stock; a shroud attached to the barrel; or a muzzle brake or compensator—all features that increase controllability, comfortability, concealability, and thus the lethality of a firearm far beyond what is reasonable required for self-defense. *See* Code of Ord. of Cook Cty., Ill. §§ 54-211(1), 212; Doc. 81, Def’s Local Rule 56.1 Statement of Undisputed Material Facts in Support of their Mot. for Summary Judgment, ¶¶ 137-50. To laypeople—especially those worshipping in synagogues or otherwise present in Jewish spaces—these weapons appear larger, more sophisticated, and more powerful than the handguns discussed in *Bruen*. They also are commonly associated with deadly mass shooting events like the massacre at the Tree of Life Synagogue. Certainly, the increased presence of these weapons in society induce reasonable fear among members of the Jewish community, who, as explained above, are frequently the targets of violent bigotry. And, due to budget limitations and the scarcity of public funding, *see supra* at 9-11, security countermeasures are not available to many religious and non-profit organizations—to the extent security countermeasures are capable of preventing the harms inflicted by assault weapons at all. *See* James H. Price and Jagdish Khubchandani, *School Firearm Violence Prevention Practices and Policies: Functional or Folly?*, 6 *Violence and Gender* 3:154, 164 (September 2019) (concluding school firearm violence prevention programs or practices lacked evidence indicating that they reduced firearm violence). Accordingly, Cook County fairly and reasonably determined that these weapons induce fear among the public—and in doing so, inhibit religious practice—and thus permissibly regulated them.

Synagogues also amply qualify as “sensitive places” entitled to protection under the Second Amendment. The right to bear arms under the Second Amendment is not all-

encompassing, and “[l]ongstanding prohibitions on the possession of firearms ... in sensitive places” are among the gun regulations that are “presumptively lawful.” *Heller*, 554 U.S. at 626-27, n.26. Religious institutions fall within the ambit of “sensitive places” that may be protected by gun regulation. See Darrell A.H. Miller, *Constitutional Conflict and Sensitive Places*, 28 Wm & Mary Bill Rts. 459, 466 (2019) (“Religious institutions are one kind of sensitive place.”); *Moore v. Madigan*, 708 F.3d 901, 904 (7th Cir. 2013) (Hamilton, J., dissenting) (“*Heller* itself endorsed restrictions in ‘sensitive’ places, such as schools and government buildings. It should not be difficult to make reasonable arguments to support extending that reasoning to areas around . . . churches and other places of worship.”). Synagogues are places where Jewish people congregate peacefully to learn and practice their faith. Regulations to protect these institutions and their important social functions are permissible under the Second Amendment.

### **CONCLUSION**

Jewish people across the United States are the victims of growing violence and hostility based on their religious and cultural identities, and Cook County is no exception. Striking the County’s assault weapons ban would substantially burden Jewish Chicagoans’ free exercise of their religion by increasing the danger to human life, requiring additional security expenditures, and discouraging attendance at synagogues and other centers of Jewish community life. Moreover, because assault weapons reasonably induce fear, especially among those in sensitive places, the Ordinance banning them comports with the Second Amendment.

For the foregoing reasons, the Court should grant Defendants’ Motion for Summary Judgment.



Respectfully submitted,

/s/ Brienne M. Letourneau

Brienne M. Letourneau (No. 6303812)  
Jeremy H. Salinger (No. 6327538)  
WILLKIE FARR & GALLAGHER LLP  
300 North La Salle Dr., Suite 5000  
Chicago, Illinois 60654  
Tel: (312) 728-9000  
bletourneau@willkie.com  
jsalinger@willkie.com

*Counsel for Amicus Curiae  
Chicago Board of Rabbis*

Dated: March 10, 2023